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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,488	09/15/2003	Ayako Yada	Q77410	9248
23373	7590	09/15/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			NUTTER, NATHAN M	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,488

Applicant(s)

YADA ET AL.

Examiner

Nathan M. Nutter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09-03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Interpretations

The term "amorphous" in claim 1 in reference to copolymer (B) is deemed, by definition, to embrace the recitation of "(b1) its melting peak does not exist substantially according to a differential scanning calorimetry (DSC)," as is shown by Chou (US 5,208,082) at column 5 (lines 19-25), Matsuki et al (US 6,114,472) at column 4 (lines 43-50), Werth (US 6,217,962) at column 6 (lines 51-59), Okanishi et al (US 6,476,144) at column 3 (lines 54-61), Fujita et al (US 6,632,900) at column 3 (lines 39-4) or Taira et al (US 6,774,196) at column 4 (lines 37-44). Thus, every amorphous copolymer exhibits the characteristic that "its melting peak does not exist substantially according to a differential scanning calorimetry (DSC)."

Specification

The disclosure is objected to because of the following informalities:

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Appropriate correction is required.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brant (US 6,639,020) or Morizono et al (US 6,632,885) both newly cited.

The reference to Brant (US 6,639,020) teaches the manufacture of a blend of “from 50 to 99.9 weight percent (“wt %”) of a propylene polymer, which may be a homopolymer produced using metallocene catalysts, with “from 0.1 to 50 wt % of an amorphous α -olefin copolymer, embracing the compositional range recited herein. Note column 2 (lines 3-38). At column 5 (lines 12-28), the reference teaches the amorphous α -olefin copolymer (B) to have (b3) a molecular weight distribution of “less than or equal to 3.5,” and to be composed of “a comonomer content of from greater than or equal to 20 mol % to less than 70 mol %,” embracing that recited herein. The polymer (A) is taught at column 7 (lines 33-63) to have (a1), a melting point of “less than 162°C,”

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embracing that recited herein, and may be a homopolymer produced with metallocene catalysts. Note column 4 (lines 63-65) for pentad fractions.

The reference to Brant teaches the inclusion of a homopolymer of propylene produced using metallocene catalysts with an amorphous α -olefin copolymer having the characteristics as herein recited, except that the polymers are not disclosed as having the intrinsic viscosity ranges, as herein recited. Since the polymers are identical in all other respects, the intrinsic viscosity ranges recited would be inherent in the polymers. As such, the instant claims are deemed to be at least obvious, if not anticipated, by the teachings of Brant.

The reference to Morizono et al (US 6,632,885) teaches the blend of a syndiotactic propylene polymer, which may be a homopolymer produced using metallocene catalysts, with an amorphous α -olefin copolymer. The reference teaches at column 2 (line 37) to column 3 (line 15), the inclusion of polymer (A) in relation to polymer (B) is taught to be in the range of 90/10 to 10/90, embracing the compositional range recited herein. The polymer (B) is taught to have (b2) an intrinsic viscosity $[\eta]$ of "0.01 to 10 dl/g" and (b3) a molecular weight distribution of "not more than 4," and to be composed of "recurring units in amounts of 50 to 100% by mol." The polymer (A) is taught at column 4 (lines 28-40) to have (a2) an intrinsic viscosity $[\eta]$ of "0.01 to 10 dl/g," which embraces that recited and claimed herein. Further, note column 9 (lines 8 et seq.) and column 11 (line 46) to column 12 (line 31). With regard to the amorphous α -olefin copolymer, note column 13 (line 14) to column 15 (line 8). Also taught for inclusion is a

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homopolymer of propylene (E), produced using metallocene catalysts, which at column 31 (lines 11 et seq.) meets the limitations of intrinsic viscosity and melting peak.

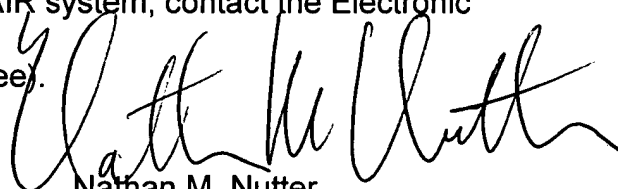
The reference to Morizono et al teaches the inclusion of a homopolymer of propylene produced using metallocene catalysts with an amorphous α -olefin copolymer having the characteristics as herein recited, except that the polypropylene homopolymer (A) is not disclosed as having a particular melting peak. In all respects the polypropylene (A) is deemed to be essentially identical to the homopolymer (E) in composition and intrinsic viscosity. Since the polymer (E) is taught to have a melting point that would fall within the range recited herein, it is assumed since there are no other differences in composition, that polypropylene (A) would also have a similar, if not identical, melting point as that disclosed for the polypropylene (E). As such, the instant claims are deemed to be at least obvious, if not anticipated, by the teachings of Morizono et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Nathan M. Nutter', is written over the printed name and title.

Nathan M. Nutter
Primary Examiner
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nmn

9 September 2005